

HOUSE BILL NO. 405

INTRODUCED BY C. YOUNKIN, HARGROVE, BISHOP, CHRISTIAENS, CRISMORE, DOHERTY,
G. FORRESTER, HALLIGAN, HARRINGTON, LENHART, MAHLUM, RASER, ROUSH, RYAN,
STONINGTON, TASH

A BILL FOR AN ACT ENTITLED: "AN ACT ADDING TO THE REQUIREMENTS OF VICTIM NOTIFICATION
TO INCLUDE VICTIMS OF THE CRIMES OF PARTNER OR FAMILY MEMBER ASSAULT AND VIOLATION
OF AN ORDER OF PROTECTION; MODIFYING THE CONDITIONS FOR RELEASE ON BAIL TO INCLUDE
PERSONS WHO VIOLATE AN ORDER OF PROTECTION; INCREASING FROM \$10 TO \$25 THE CHARGE
THAT EACH CONVICTED CRIMINAL MUST PAY FOR VICTIM ADVOCATE PROGRAMS OPERATED OR
USED BY COUNTIES, CITIES, AND TOWNS; CLARIFYING THE DISTRIBUTION OF THE VICTIM
ADVOCATE CHARGE; ~~AND~~ AMENDING SECTIONS 3-10-601, 46-9-108, 46-9-302, AND 46-18-236,
MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-10-601, MCA, is amended to read:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) Each justice of
the peace shall collect the fees prescribed by law for justices' courts and shall pay them into the county
treasury of the county in which the justice of the peace holds office, on or before the 10th day of each
month, to be credited to the general fund of the county.

(2) All fines, penalties, and forfeitures that are required to be imposed, collected, or paid in a
justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of
the following month to the treasurer of the county in which the justice's court is situated, except that they
may be distributed as provided in 44-12-206 if imposed, collected, or paid for a violation of Title 45,
chapter 9 or 10.

(3) ~~The~~ Except as provided in 46-18-236(7), the county treasurer shall, in the manner provided
in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the state treasurer for deposit in the state general fund; and

(b) 50% to the county general fund."

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2 **Section 2.** Section 46-9-108, MCA, is amended to read:

3 **"46-9-108. Conditions upon defendant's release -- notice to victim of stalker's release.** (1) The
4 court may impose any condition that will reasonably ensure the appearance of the defendant as required
5 or that will ensure the safety of any person or the community, including but not limited to the following
6 conditions:

7 (a) the defendant may not commit an offense during the period of release;

8 (b) the defendant shall remain in the custody of a designated person who agrees to supervise the
9 defendant and report any violation of a release condition to the court, if the designated person is
10 reasonably able to assure the court that the defendant will appear as required and will not pose a danger
11 to the safety of any person or the community;

12 (c) the defendant shall maintain employment or, if unemployed, actively seek employment;

13 (d) the defendant shall abide by specified restrictions on the defendant's personal associations,
14 place of abode, and travel;

15 (e) the defendant shall avoid all contact with an alleged victim of the crime and any potential
16 witness who may testify concerning the offense;

17 (f) the defendant shall report on a regular basis to a designated agency or individual, pretrial
18 services agency, or other appropriate individual;

19 (g) the defendant shall comply with a specified curfew;

20 (h) the defendant may not possess a firearm, destructive device, or other dangerous weapon;

21 (i) the defendant may not use or possess alcohol, or any dangerous drug or other controlled
22 substance without a legal prescription;

23 (j) the defendant shall furnish bail in accordance with 46-9-401; or

24 (k) the defendant shall return to custody for specified hours following release from employment,
25 schooling, or other approved purposes.

26 (2) The court may not impose an unreasonable condition that results in pretrial detention of the
27 defendant and shall subject the defendant to the least restrictive condition or combination of conditions
28 that will ensure the defendant's appearance and provide for protection of any person or the community.
29 At any time, the court may, upon a reasonable basis, amend the order to impose additional or different
30 conditions of release upon its own motion or upon the motion of either party.

(3) Whenever a person accused of a violation of 45-5-206, 45-5-220, or 45-5-626 is admitted to bail, the court shall, as soon as possible under the circumstances, make one and if necessary more reasonable attempts, by means that include but are not limited to certified mail, to notify the alleged victim or, if the alleged victim is a minor, the alleged victim's parent or guardian of the accused's release."

Section 3. Section 46-9-302, MCA, is amended to read:

"46-9-302. Bail schedule -- acceptance by peace officer. (1) A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is:

(a) any assault on a partner or family member, as partner or family member is defined in 45-5-206; or

(b) stalking, as defined in 45-5-220; or

(c) violation of an order of protection, as defined in 45-5-626.

(2) A peace officer may accept bail on behalf of a judge:

(a) in accordance with the bail schedule established under subsection (1); or

(b) whenever the warrant of arrest specifies the amount of bail.

(3) Whenever a peace officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the judge before whom the offender is to appear, and the judge shall give a receipt to the peace officer for the bail delivered."

Section 4. Section 46-18-236, MCA, is amended to read:

"46-18-236. (Temporary) Imposition of charge upon conviction or forfeiture -- administration. (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:

(a) \$15 for each misdemeanor charge;

(b) the greater of \$20 or 10% of the fine levied for each felony charge; and

(c) an additional ~~\$10~~ \$25 for each misdemeanor and felony charge under Title 45, 61-8-401, or 61-8-406.

(2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able

1 to pay the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive
2 payment of the charge imposed by this section.

3 (3) The charges imposed by this section are not fines and must be imposed in addition to any fine
4 and may not be used in determining the jurisdiction of any court.

5 (4) When the payment of a fine is to be made in installments over a period of time, the charges
6 imposed by this section must be collected from the first payment made and each subsequent payment as
7 necessary if the first payment is not sufficient to cover the charges.

8 (5) The charges collected under subsection (1), except those collected under subsections (1)(a)
9 and (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer
10 or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges
11 collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a
12 district court or justice's court is the court of original jurisdiction, the charges collected under subsection
13 (1) must be deposited with the county finance officer or treasurer. If the court of original jurisdiction is a
14 court within a consolidated city-county government within the meaning of Title 7, chapter 3, the charges
15 collected under subsection (1) must be deposited with the finance officer or treasurer of the consolidated
16 government.

17 (6) (a) A city or town finance officer or treasurer may retain the charges collected under
18 subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for
19 the payment of salaries of the city or town attorney and deputies.

20 (b) Each county finance officer or treasurer may retain the charges collected under subsections
21 (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that
22 county. The county finance officer or treasurer shall use the money for the payment of salaries of its
23 county attorney and deputy county attorneys and for the payment of other salaries in the office of the
24 county attorney, and any funds not needed for those salaries may be used for the payment of any other
25 county salaries.

26 (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or
27 treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim
28 and witness advocate program, INCLUDING A PROGRAM OPERATED BY A PRIVATE, NONPROFIT ORGANIZATION, that
29 provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or
30 used by the county, city, or town.

(b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each charge collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to allocation under 46-18-251.

(c) If the county, city, or town does not operate or use a victim and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance account established in 53-9-109, except as provided in subsection (7)(b). (Terminates July 1, 2001--sec. 4, Ch. 411, L. 1999.)

46-18-236. (Effective July 1, 2001) Imposition of charge upon conviction or forfeiture -- administration. (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a ~~defendant~~ person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:

(a) \$15 for each misdemeanor charge;

(b) the greater of \$20 or 10% of the fine levied for each felony charge; and

(c) an additional ~~\$10~~ \$25 for each misdemeanor and felony charge under Title 45, 61-8-401, or 61-8-406.

(2) If a convicting court determines under 46-18-231 and 46-18-232 that the ~~defendant~~ person is not able to pay the fine and costs or that the ~~defendant~~ person is unable to pay within a reasonable time, the court shall waive payment of the charge imposed by this section.

(3) The charges imposed by this section are not fines and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court.

(4) When the payment of a fine is to be made in installments over a period of time, the charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the charges.

(5) The charges collected under subsection (1), except those collected under subsections (1)(a) and (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court or justice's court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer or treasurer. If the court of original jurisdiction is a

1 court within a consolidated city-county government within the meaning of Title 7, chapter 3, the charges
2 collected under subsection (1) must be deposited with the finance officer or treasurer of the consolidated
3 government.

4 (6) (a) A city or town finance officer or treasurer may retain the charges collected under
5 subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for
6 the payment of salaries of the city or town attorney and deputies.

7 (b) Each county finance officer or treasurer may retain the charges collected under subsections
8 (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that
9 county. The county finance officer or treasurer shall use the money for the payment of salaries of its
10 deputy county attorneys and for the payment of other salaries in the office of the county attorney, and
11 any funds not needed for those salaries may be used for the payment of any other county salaries.

12 (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or
13 treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim
14 and witness advocate program, INCLUDING A PROGRAM OPERATED BY A PRIVATE, NONPROFIT ORGANIZATION, that
15 provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or
16 used by the county, city, or town.

17 (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each ~~\$10~~
18 charge collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs
19 incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are
20 not subject to allocation under 46-18-251.

21 (c) If the county, city, or town does not operate or use a victim and witness advocate program,
22 all charges collected under subsection (1)(c) must be paid to the crime victims compensation and
23 assistance account established in 53-9-109, except as provided in subsection (7)(b)."

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25 NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2001.

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